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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,022	01/26/2004	James Martinolich	CHYRON 3.0-023	1297
530 7590 03/17/2008 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			EXAMINER LIN, JASON K	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 03/17/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/765,022

**Applicant(s)**

MARTINOLICH ET AL.

**Examiner**

JASON K. LIN

**Art Unit**

2623

***--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***

THE REPLY FILED 11 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

/Brian T. Pendleton/  
Supervisory Patent Examiner, Art Unit 2623

Continuation of 11, does NOT place the application in condition for allowance because:

A) On P.10: lines 8-12 the applicant asserts that "graphics metadata" is data that can be used to derive pixel values for a display screen. (See e.g., specification paragraph [0033])." The examiner notes that this is supported by the specifications as cited, however, the definition of "graphics metadata" as cited by the specifications in Paragraph 0033 states "As used herein, 'graphics metadata' relates to descriptions of the CG graphics to be embedded into the video signal." This definition is broad and "graphics metadata" can reasonably be broadly interpreted to just be any data that "relates" to descriptions of CG graphics that are to be embedded with the video signal. Therefore, applicant's assertion that "graphics metadata" is data that can be used to derive pixel values for a display screen" is not claimed, therefore "graphics metadata" can reasonably be interpreted to just be any data that "relates" to descriptions of CG graphics that are to be embedded with the video signal.

B) On P.10: line 26 - P.11: line 2 applicants assert that "Srinivasa does not specify the addition of 'text' in the sense of metadata used to derive pixel values..." "metadata used to derive pixel values" is not claimed. Please see part A) of the response above regarding metadata used to derive pixel values. Therefore the "text" referred to in Srinivasa does not necessarily have to be associated with a style and a format as asserted by the applicants, since the reasoning based by the applicant's is not claimed "metadata is used to derive pixel values."

C) On P.11: lines 3-32 applicants assert that "Vienneau fails to disclose embedding graphics metadata into a video signal, let alone embedding graphics metadata that includes at least alphanumeric content data which is distinct from any style and format data. Further, Ramaswamy does not cure the deficiencies of Vienneau because Ramaswamy does not disclose the embedding of graphics metadata into a video signal. That is, Ramaswamy does not disclose the embedding into a video signal of metadata used to derive pixel values, but rather discloses the embedding into a video signal of metadata unrelated to pixel values." The examiner respectfully disagrees. The examiner has noted that Vienneau does disclose adding graphics metadata into the video signal, but does not disclose the embedding of metadata. Graphics metadata is a form of metadata, therefore Ramaswamy was merely brought in for the generic teaching of embedding metadata into a video signal which is well known in the art. As for applicants assertion regarding "None of those can be construed as 'graphics metadata' because they are not used to derive pixel values" "graphics metadata used to derive pixel values" is not claimed. Please take note of examiner's response in part A).